

REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-7 are all the claims pending in the application. By this Amendment, Applicant is amending claims 1-7 and adding new claims 8-20. Hence, claims 1-20 are all the claims pending in the application. Claims 1, 8, and 19 are all the independent claims.

Claim to Foreign Priority

Applicant thanks the Examiner for acknowledging the claim to foreign priority and for confirming that the certified copy of the priority document was received.

Information Disclosure Statement

Applicant also thanks the Examiner for initialing the references listed on form PTO/SB/08 submitted with the Information Disclosure Statement filed on May 6, 2005.

Drawings

Applicant thanks the Examiner for acknowledging and accepting the drawings filed on May 6, 2005.

Claim Objections

Claims 6 and 7 are objected to for grammatical errors and for being in improper dependent form, respectively. By this Amendment, Applicant is amending claims 1-7 to correct various grammatical errors, and to correct the dependent form of claim 7.

Art Rejections

1. Claims 1, 2 and 5 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Komura (US 5,405,039).
2. Claims 3, 4 and 6 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Komura (US 5,405,039).

Applicant respectfully traverses.

Claim Rejections - 35 U.S.C. § 102

1. *Claims 1, 2 and 5 In View Of Komura (US 5,405,039).*

In rejecting claims 1, 2 and 5 in view of Komura, the grounds of rejection state:

Regarding claim 1, Komura teaches an easy-open lid, specifically applicable in lids (3) which, with a circular, elliptical or rectangular configuration with rounded vertices, incorporate a cut line (8), parallel and close to their perimeter for opening the lid with the collaboration of a punch-tear away ring tab (6) attached to the body (3) of the lid by means of a rivet (7) and provided with a punching vertex acting on said cut line (8), characterized in that said cut line (8) is provided with a breakage segment (8) with a curved path, having a curvature center (9) coinciding with the rivet (7) for attaching the ring tab (6) to the body (3) of the lid, such that said punch vertex is kept in place on the breakage segment (8) after an accidental rotation of said ring tab (6) throughout the process of handling the lid (3) itself and the container which it is associated to (figure 2).

Regarding claim 2, Komura teaches that the amplitude of the arcuate breakage segment (8) of the cut line (8) is greater than 1 degree (figure 3).

Regarding claim 5, Komura teaches that the breakage segment (8) on the cut line (8) is symmetrical with regard to the imaginary axis formed by the theoretical actuation point (10) of the punch vertex of the ring tab (6), coinciding with the mid-point of the breakage segment (8), and the rivet (7) for attaching the ring tab (figure 3).

Office Action at pages 2-3.

Komura does not disclose every feature of claim 1. Specifically, it does not disclose a punching vertex which acts on the cut line or is kept in place on the breakage segment. Figs. 1 and 4 of Komura, which display the embodiments of the can in an unopened state, clearly show the pressing portion 9 of the opening tab 6 separated from the line of weakness 8. Therefore, the alleged “punching vertex” does not act on the alleged “cut line.” In fact, Komura teaches away from this feature. It states that “the pressing portion 6a of said small tab 6 [is] located between line [of weakness] 8 and the staking member 7.” See col. 2, line 41-43.

For the above reasons, Applicant respectfully requests that the rejection for claim 1 be withdrawn. Applicant further submits that claims 2 and 5 are patentable at least by virtue of their dependencies from claim 1.

Claim Rejections - 35 U.S.C. § 103

1. Claims 3, 4 And 6 Over Komura (US 5,405,039).

In rejecting claims 3, 4 and 6 over Komura, the grounds of rejection state:

Komura teaches that the amplitude of the arcuate breakage segment (8) of the cut line (8) ranges between 90 degrees and 180 degrees (figure 3, (column 2 lines 47-60), but does not disclose that the invention is capable of producing a breakage segment corresponding to a range between 1 and 80 degrees, or 20 degrees.

It is old and well known within the art that the amplitude of the breakage line relates to the degree of pressure force the tab places on the breakage area. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the force the tab places on the breakage area to correspond to an optimal value of breakage segment amplitude corresponding to a range between 1 and 80 degrees, or 20 degrees. Furthermore it has been held that discovering the optimum or

workable ranges involves only routine skill in the art (*In re Aller*, 105 USPQ 233).

Office Action at page 4.

The Examiner concedes that Komura does not disclose an easy-open lid that is capable of producing a breakage segment corresponding to a range between 1 and 80 degrees, or 20 degrees. The Examiner has asserted, that this feature would have been obvious, as merely “discovering the optimum or workable ranges,” but has given no support for this assertion.

Applicant submits that a person having ordinary skill in the art would not have found it obvious to make the breakage segment between 1 and 80 degrees based solely off of Komura. Komura teaches making the opening the can as large as possible, using alleged “breakage segments” between 90 and 180 degrees, as admitted by the Examiner (see 3/17/2008 Office Action, page 4). It does this to maximize the area that a user can drink from (see col. 3 line 32-36). Making this segment less than 80 degrees would go against the teachings of Komura and would destroy the functionality of Komura. As a result, Komura does not limit the size of the breakage segment to 1-80°, and by extension does not teach making it 20°, or 10° on either side of the theoretical actuation point of the punching vertex of the ring tab.

Additionally, as changing the size of the breakage segment would not cure the above-noted deficiencies with Komura, claims 3, 4, and 6 should be patentable at least by virtue of their respective dependencies from claim 1. Therefore, Applicant requests the rejection of claims 3, 4, and 6 be withdrawn.

New Claims

By this Amendment, Applicant adds new claims 8-20.

Applicant submits that claim 8 is patentable over the prior art for analogous reasons as claim 1, and additionally because the prior art does not disclose that the curved breakage segment of the cut line has a center of curvature coinciding with the attachment location of the ring tab.

Applicant submits that claims 10-12 are patentable over the prior art, as the prior art does not disclose that the curved breakage segment is defined by a variation of the cut line, or that this variation comprises one or more inflections in the cut line.

Applicant submits that claims 16-18 are patentable over the prior art for analogous reasons as claims 2, 3, and 5, respectively.

Applicant submits that claim 19 is patentable over the prior art for analogous reasons as claim 1, and additionally because the prior art does not disclose that the curved breakage segment of the cut line is defined by a variation in the curvature of the cut line, this variation aligned with the punching vertex of the ring tab.

Applicant submits that claim 20 is patentable over the prior art because the prior art does not disclose that the curved breakage segment of the cut line has a center of curvature coinciding with the attachment location of the ring tab.

Applicant further submits that claims 9-18 are patentable at least by virtue of their dependencies from claim 8, and that claim 20 is patentable at least by virtue of its dependency from claim 19.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Application No.: 10/534,027

Attorney Docket No.: Q87652

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Raja N. Saliba
Registration No. 43,078

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: May 29, 2008